

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                    |  |                   |               |
|--------------------|--|-------------------|---------------|
| U.S. Patent Number | : 7,741,080  | Issue Date:       | June 22, 2010 |
| Application Number | : 10/594,969   | Confirmation No.: | 1288          |
| Applicant          | : Takashi KADOWAKI, <i>et al.</i>                            |                   |               |
| Filed              | : September 29, 2006   |                   |               |
| Title              | : ADIPONECTIN EXPRESSION-INDUCING AGENTS AND<br>USES THEREOF |                   |               |
| TC/Art Unit        | : 1647   |                   |               |
| Examiner:          | : Elly Gerald STOICA   |                   |               |
| Docket No.         | : 68600.000002   |                   |               |
| Customer No.       | : <b>21967</b>   |                   |               |

**MAIL STOP PATENT TERM EXT.**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF  
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)**

Dear Sir:

Applicants submit a Request for Reconsideration of the Patent Term Adjustment under 37 C.F.R. § 1.705(d) of 285 days ("Request") indicated for the above-identified patent. It is respectfully requested that Applicants be granted a minimum patent term adjustment of **461 days**.

U.S. Patent No. 7,741,080 ("the '080 patent") issued less than two-months before the date of this Request. Accordingly, as required by 37 C.F.R. § 1.705(d), this request is timely.

In accordance with 37 C.F.R. § 1.705(b)(1), please charge the fee set forth in 37 C.F.R. § 1.18(e) (\$200) to the undersigned's **Deposit Account No. 50-0206**. In the event any additional fees are required for consideration of this request, the U.S. Patent and Trademark Office ("USPTO") is authorized to charge these fees to the undersigned's Deposit Account No. 50-0206.

**Remarks begin on page 2.**

### **REMARKS**

Applicants request reconsideration under 37 C.F.R. § 1.705(d) of the patent term adjustment for the '080 patent. In view of the following, it is respectfully requested that Applicants be granted a minimum patent term adjustment of at least **461 days**.

#### **Statement Under 37 C.F.R. § 1.705(b)(2)**

The patent term adjustment ("PTA") under 35 U.S.C. § 154(b) listed on the face of the '080 patent is 285 days. See **Exhibit A** (first page of the '080 patent). This determination is in error because the USPTO failed to take certain action within the time frame specified in 37 C.F.R. § 1.702(a) and failed to issue a patent within three years of the actual filing date of the above-identified patent in accordance with 37 C.F.R. § 1.702(b). See also Wyeth v. Kappos, 591 F.3d 1364, 93 U.S.P.Q.2d 1257 (Fed. Cir. 2010).

#### **A. Calculation of PTA Under 37 C.F.R. § 1.703**

The following facts are relevant for determining PTA for the '080 patent.

- September 26, 2006 — U.S. Patent Application No. 10/594,969 is filed. See **Exhibit B** (Transmittal Sheet with USPTO date stamp).
- November 26, 2007 — fourteen months from the filing date of the application (*i.e.*, beginning of "A period").
- October 10, 2008 — mail date of Restriction Requirement (*i.e.*, end of "A period").
- September 26, 2009 — three years from filing date of application (*i.e.*, beginning of "B period").
- June 22, 2010 — U.S. Patent No. 7,741,080 issues (*i.e.*, end of "B period").

#### **1. "A" Periods Under 37 C.F.R. § 1.702(a)(2)**

The number of days from the beginning of the "A period" (November 26, 2007, *i.e.*, fourteen months from the filing date of the application) to the end of the "A period" (October 10, 2008, *i.e.*, the day a first office action was mailed) is 319 days. This is contrary to the USPTO's calculations. See **Exhibit C** (USPTO Patent Term Adjustment History).

**2. “B” Periods Under 37 C.F.R. § 1.702(b)**

The number of days from the beginning of the “B period” (September 26, 2009, *i.e.*, three years from the filing day of the application) to the end of the “B period” (June 22, 2010, *i.e.*, the day the '080 patent issued) is 269 days. *See Exhibit D* (Transaction History).

**3. Delay Attributed to Applicant**

The USPTO calculated Applicants' delay in the '080 patent as 127 days. *See Exhibit C* (USPTO Patent Term Adjustment History).

**4.  $PTA = (A \text{ Period} + B \text{ Period}) - \text{Applicants Delay}$**

The PTA should be calculated as follows:

A period = 319 days. *See 1. above*

B period = 269 days. *See 2. above.*

Applicants' delay = 127 days. *See 3 above.*

$(319 + 269) - 127 = 461$  days

Accordingly, Applicants respectfully request that the '080 patent be granted a minimum PTA of at least **461 days**.

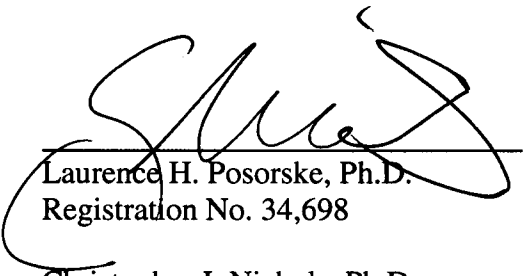
**CONCLUSION**

In view of the above remarks, it is respectfully requested that this Request for Reconsideration of Patent Term Adjustment be favorably considered and that a corrected Determination of Patent Term Adjustment be issued to reflect a minimum patent term adjustment of at least **461 days**.

Respectfully submitted,  
HUNTON & WILLIAMS LLP

Date: 8/13/2010

By:

  
Laurence H. Posorske, Ph.D.  
Registration No. 34,698

Christopher J. Nichols, Ph.D.  
Registration No. 55,984

HUNTON & WILLIAMS LLP  
**Intellectual Property Department**  
1900 K Street, N.W., Suite 1200  
Washington, D.C. 20006  
(202) 955-1500 (telephone)  
(202) 778-2201 (facsimile)